

AN ACT

relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.08, Code of Criminal Procedure, is amended to read as follows:

Art. 2.08. DISQUALIFIED. (a) District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State.

(b) A judge of a court in which a district or county attorney represents the State shall declare the district or county attorney disqualified for purposes of Article 2.07 on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. A disqualification under this subsection applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

SECTION 2. The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. The prosecution of an offense committed before

H.B. No. 1638

1 the effective date of this Act is governed by the law in effect on
2 the date the offense was committed, and the former law is continued
3 in effect for that purpose. For purposes of this section, an
4 offense was committed before the effective date of this Act if any
5 element of the offense occurred before that date.

6 SECTION 3. This Act takes effect September 1, 2011.

H.B. No. 1638

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 1638 was passed by the House on April 7, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1638 on May 27, 2011, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 1638 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Datsy Shaw

Secretary of the Senate

APPROVED:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4pm O'CLOCK

JUN 17 2011

John R. Rahn

Secretary of State